

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 01-0054P

**Sales and Use Tax
Calendar Years 1996, 1997, 1998, and 1999**

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer protests the penalty assessed on an audit completed on September 8, 2000.

Taxpayer is an Indiana corporation with its parent filing a consolidated income tax return in Indiana. Upon audit it was discovered that the taxpayer collected sales tax in 1996 and failed to remit approximately twenty-five percent of the tax collected. Taxpayer had no use tax accrual system in place for 1996 and remitted 57.4% and 48.9% of its use tax in 1997 and 1998 respectively. In 1999, taxpayer had no use tax accrual system in place.

1. **Tax Administration** – Penalty

DISCUSSION

Taxpayer's audit report revealed that it was inconsistent in remitting its use tax due.

Taxpayer requests a waiver of penalties because it prepared its monthly sales and use tax returns and made timely payments of its liabilities. In addition it fully cooperated with the auditor and the deficiency assessment is part of human error in gathering information to file the returns plus misinterpretation of the Indiana sales and use tax rules on software licensing agreements.

Taxpayer had no use tax accrual system in place for 1996 and 1999 and remitted approximately fifty percent (50%) of its use tax due in 1997 and 1998. Taxpayer has not provided reasonable cause for its failure to properly remit tax.

FINDING

Taxpayer's protest is denied.